

TEXAS DEPARTMENT OF LICENSING AND REGULATION



May 28, 1993

The Honorable Dan Morales
Attorney General of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78701

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Opinion Committee

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ATTN: Opinion Committee

RE: Request for an Attorney General's Opinion further interpreting Sections 11(a) and 11(b) of the Texas Boxing and Wrestling Act, V.T.C.S. Article 8501-1.

Dear Mr. Morales:

The Texas Boxing and Wrestling Act recites in its purpose section:

Section 2. "The legislature finds that the boxing industry in this state should be regulated....through the imposition of certain regulations...and to impose a gross receipts tax upon the proceeds obtained from boxing performances to finance said regulation." (Emphasis added.)

The Act imposes said gross receipts tax in Section 11(a) and requires the promoter to furnish, "A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report." (Emphasis added.) Section 11(b) applies the gross receipts tax to closed circuit telecasts and requires a check or money order for 3% of the "amount of gross receipts obtained from the event."

The Texas Department of Licensing and Regulation has been collecting the three percent gross receipts tax on the total gross receipts of or from the event as stated in the Act. This includes three percent of the gross receipts the promoter gets from all television rights.

In 1981, the Attorney General in discussing a tax on a tax question, determined in MW-316 that:

"The term "total gross receipts" denoting the subject matters of the three percent tax levied by article 8501-1, Section 11(a), V.T.C.S., means the sum total of all admission charges to any taxable athletic performance, without any deduction for tax."

In Attorney General Opinion DM-110, you stated, "Consequently, we conclude that pay-per-view fees (collected by cable television companies) are not subject to the three percent gross receipts tax....and cable television companies need not acquire a boxing promoter's license..." In that same opinion however, you stated in the footnote, "...we do not discuss whether "closed circuit telecast" can be construed to include pay-per-view telecasts." We believe that under our interpretation that the legislature wanted the department to collect 3% of the total gross receipts of or from the event that all the money the promoter makes either from the sale of tickets, sale of the television rights, or a cut of the proceeds from a television cable company's pay-for-view must be included in calculating the total gross receipts of or from the event.

Therefore, are we correct in continuing to collect 3% of the total gross receipts of or from the event?

Will we be correct in collecting a 3% total gross receipts tax from the promoter's share of the proceeds when the event is held in Texas and telecast pay-per-view outside of the state?

A copy of the Act, the two AG opinions and related documents are attached. Thank you in advance.

Respectfully submitted,


Jack W. Garrison
Executive Director

JWG/egs

Attachments